

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 28744 of 2004(V)

PETITIONER:

**K.V. ABDU RAHIMAN, S/O. KUNJALI,
AGED 48 YEARS, SPECIAL ASSISTANT (NOW REMOVED)
KERALA STATE ROAD TRANSPORT CORPORATION
EDAPPAL AND RESIDING AT KOTHARAVALLAPPIL, KULAKKAD,
POST KUTTIPURAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.N.UNNIKRISHNAN.

RESPONDENTS:

- 1. THE KERALA STATE ROAD TRANSPORT
CORPORATION, TRANSPORT BHAVAN, FORT,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
MANAGING DIRECTOR.**
- 2. THE EXECUTIVE DIRECTOR (VIGILANCE),
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.**
- 3. THE KERALA STATE ROAD TRANSPORT
APPELLATE TRIBUNAL, TRANSPORT BHAVAN,
FORT, THIRUVANANTHAPURAM.**

BY SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.28744/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER DTD. 23/04/2003 SUBMITTED BY THE PETITIONER.

EXT.P.2: COPY OF THE MEMO NO. RW3-611/03/EDPL DTD. 23/04/2003 ISSUED BY THE WORKS MANAGER, REGIONAL WORKSHOP, EDAPPAL TO THE PETITIONER.

EXT.P.3: COPY OF THE CHARGE SHEET NO. VLC1-014076/2003 DTD. 03/06/2003 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.4: COPY OF THE WRITTEN STATEMENT DTD. 10/06/2003 ISSUED BY THE PETITIONER TO THE R.2.

EXT.P.5: COPY OF THE SHOW CAUSE NOTICE NO. VLC1-014076/2003 DTD. 30/07/2003 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.6: COPY OF THE ENQUIRY REPORT DTD. 28/07/2003 ISSUED BY THE ENQUIRY OFFICER, ERNAKULAM.

EXT.P.7: COPY OF THE EXPLANATION DTD. 15/08/2003 SUBMITTED BY THE PETITIONER TO THE R.2.

EXT.P.8: COPY OF THE ORDER NO. VLC1-014076/2003 DTD. 16/09/2003 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.9: COPY OF THE APPEAL DTD. 02/10/2003 SUBMITTED BY THE PETITIONER TO THE R.1.

EXT.P.10: COPY OF THE ORDER NO. D. DIS.025532/03 (APL) OF THE MANAGING DIRECTOR, KSRTC, DTD. 16/01/2004.

EXT.P.11: COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE TRIBUNAL.

EXT.P.12: COPY OF THE ORDER IN R.P. NO. 6/2004 OF THE KSRTC APPELLATE TRIBUNAL DTD. 07/08/2004.

//TRUE COPY//

P.S. TO JUDGE

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.28744 OF 2004-V

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Dated this the 13th day of July, 2007.

JUDGMENT

Petitioner, then a Special Assistant in the Kerala State Road Transport Corporation was charge-sheeted on counts of indiscipline. The allegation against him, in its gist, was that he had obtained leave on different dates and thereafter, manipulated the attendance register to make it appear that he had actually worked on those dates. The marking 'L' is alleged to have been removed and attendance marked against different dates. P.W.1, the Superintendent of the Office tendered oral evidence. P.W.2, another employee corroborated that version. Petitioner did not cross-examine either of them. He did not tender any defence version. His

case in defence is that the leave applications were placed in advance and whenever the leave was not necessary for him he used to come to the office and work and that the attendance was marked accordingly. It is his case that if at all he has erred, it was in not obtaining appropriate attestation from the superior authorities. His case is that during the period in question he was constructing a house and that his brother had fallen sick and died as a result of which his mother developed physical and mental ill-health resulting in the leave for continued attention. The evidence before the Enquiry Officer has been taken stock off by three authorities. The disciplinary authority, appellate authority and the Appellate Tribunal have concurred in the matter of finding the petitioner guilty and in the matter of imposing the punishment. I do not find any error of jurisdiction or legal infirmity either in the procedure or in the findings. On the basis of the materials on record, it cannot be said that the finding as to the guilt is wholly unavailable on the evidence. I, therefore, do not find any ground to interfere with the impugned decisions.

2. The learned counsel for the petitioner, however, states that the totality of the facts and circumstances when weighed in the context of the fact that the petitioner had applied only for casual leave and the circumstances in his family require a sympathetic consideration at the highest level in the establishment. It is also attempted to be pointed out that the petitioner has an unblemished career barring the incident in hand. While confirming the impugned decisions and dismissing this writ petition accordingly, it is clarified that any representation of the petitioner for reconsideration of the punishment imposed on him could be done by the first respondent without reference to the fact that the punishment already imposed stands confirmed by the Appellate Tribunal and by this Court. Such an opportunity for representation is being granted on humanitarian considerations and not on a ground referable to law for the purpose of being agitated afresh. If a representation is filed by the petitioner within one month from the date of receipt of a copy of this judgment, the

Managing Director of the Corporation will make an endeavour to dispose it off within an outer limit of four months from the date of reception of such representation or a certified copy of this judgment, whichever is later.

Subject to the above, the writ petition stands dismissed.

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

Sha/-